

REMARKS

Claims 1-51 are pending in this application.

Claims 1-6, 14-19, 27-32, 40-43, 45-49, and 51 are rejected under 35 U.S.C. § 103(a) as being obvious over Emens et al. U.S. Patent No. 6,591,279 ("Emens") in view of Serbinis et al. U.S. Patent No. 6,584,466 ("Serbinis").

Claims 7-13, 20-26, 33-39, 44, and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Emens in view of Serbinis and in further view of Vaithilingam et al. U.S. Patent No. 6,411,724 ("Vaithilingam").

The Examiner's rejections are respectfully traversed.

Applicants have amended claims 1, 3, 7, 8, 11, 14, 16, 24, 26, 27, 29, 33, 34, 40, 41, 45, 46, and 51 to more particularly define the invention and to correct minor clerical errors. No new matter has been added by the amendments and the new claims and the amendments and new claims are fully supported by the original specification.

Interview Summary

The Examiner and applicants' representatives, Alexander Shvarts (Reg. No. 47,943) and Michael J. Chasan (Reg. No. 54,026), conducted a telephonic interview on February 12, 2006. Applicants and applicants' representatives wish to thank the Examiner for the courtesies extended during the interview. During the interview, the Examiner and applicants' representatives discussed the claims and the cited references. Applicants' pointed out to the Examiner that the features of applicants' claims 40-51 added in the Reply to the previous Office Action were not fully considered in the present Office Action.

The Rejection of Independent Claim 1, 14, and 27

The Examiner rejected independent claims 1, 14, and 27 under 35 U.S.C. § 103(a) as being obvious over Emens in view of Serbinis.

Applicants' amended independent claims 1, 14, and 27 are, generally speaking, directed to a method and systems for providing remote access to captured content. Using a capture device, content regarding an event (e.g., detected by a sensor) is captured and transmitted to a remote computer over a communications network, where the content is associated with a user account and is published to a database on the remote computer. The database stores locally captured content associated with the user account and is updated with the published content. A textual notification indicating that the content has been published is automatically transmitted from the remote computer to a user associated with the account and the user may access the published content using a user access device.

Emens refers to a computer-based notification system. A user may define an event notification profile such that, when a sensor receives an indication that corresponds to those of the notification profile, a notification, including a digital image of the event, is sent to the user in an email.

Serbinis refers to an Internet-based document management system. An electronic document may be stored on an Internet-accessible server and accessed using a web browser, downloaded for review or manipulation, and then returned to the server for access by other users. The document management

system may send authorized users notifications related to the documents stored on the server.

The Examiner contends that Emens shows all of the elements of applicants' independent claims 1, 14, and 27 except for publishing the locally captured content on a remote computer, associating the locally captured content with a user account, notifying the user that the content has been published, and allowing the user to access the published content on the remote computer with a user access device. The Examiner attempts to remedy this deficiency in Emens by combining Emens with Serbinis. Applicants respectfully disagree with this rejection.

The Examiner has failed to establish a
prima facie case of obviousness

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See MPEP 2143; see also *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness and that this rejection is therefore insufficient as a matter of law. In particular, the Examiner has failed to fulfill the requirement of presenting an "objective teaching . . . or . . . knowledge generally available to one of ordinary skill in the art that would lead that individual to combine the relevant teachings of

the references," *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). See also *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998) ("When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references").

The Examiner contends that it would have been obvious to one of ordinary skill in the art to modify Emens to include the teaching of Serbinis "to ensure widespread content availability." Final Office Action at p. 4. The Examiner further explains that "[c]ontent availability is he [sic] the cornerstone to any content providing network, thus with the addition of publication of the desired content, many authorized uses [sic] can access the published content from various locations on demand." *Id.*

However, applicants submit that this is not an objective teaching that would lead one of ordinary skill in the art to combine these references to obtain applicants' claimed invention. Rather this is merely an alleged benefit of Serbinis' document management system over a traditional document management system. This statement does not provide any hint of motivation to combine the computer-based notification system of Emens with Serbinis' document management system.

In fact, the motivation that the Examiner has pointed to in Serbinis (*i.e.*, the benefit of widespread content availability) is insufficient because it is merely conclusory. Applicants submits, therefore, that the Examiner's purported motivation is a broad, conclusory statement without factual support. Broad conclusory statements, standing alone, are not sufficient to support an obviousness rejection. See *In re Freed*, 165 USPQ 570, 571-72 (CCPA 1970) (an obviousness rejection must

be based on facts, "cold hard facts"); see also *In re Kotzab*, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) ("[b]road, conclusory statements standing alone are not 'evidence'"). The Examiner's statement that the combination "ensure[s] widespread content availability," without factual support, is insufficient as a matter of law. See *In re Dembiczak*, 50 USPQ2d 1614 (Fed. Cir. 1999).

Moreover, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. See *In re Malls*, 16 USPQ2d 1430 (Fed. Cir. 1999); see also *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992) ("The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification."). While *Emens* and *Serbinis* both relate to computer-based systems, and assuming, *arguendo*, that combining *Emens* and *Serbinis* yields all of the features applicants' claimed invention, without a proper showing of a suggestion or motivation to combine the references, a finding of obviousness is improper.

Applicants submit that the Examiner has employed hindsight reconstruction in combining the references. With the knowledge of applicants' novel approach for providing remote access to locally captured content, particular features of the prior art were identified for use in rejecting applicants' claimed invention. This technique has long been held invalid by the courts at creating a *prima facie* case of obviousness. See, e.g., *In re Fine* at 1600 ("One cannot use hindsight

reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.").

The Examiner has used applicants' own claims as a bridge between Emens and Serbinis. In doing so, the Examiner has demonstrated mere hindsight reconstruction, the very "syndrome" that the requirement for objective evidence is designed to combat, and the rejection is therefore insufficient as a matter of law. See *In re Dembiczak* at 1617-1618.

Because the Examiner failed to point to a suggestion or motivation for modifying Emens with the teachings of Serbinis, applicants submits that the Examiner has failed to make a *prima facie* case of obviousness. See MPEP § 2142.

Emens teaches away from the features of applicants' independent claims

Not only has the Examiner failed to present a sufficient suggestion or motivation to combine Emens with Serbinis in the manner identified by the Examiner in order to show all of the elements of applicants' claimed invention, but such a suggestion or motivation cannot exist because Emens actually teaches away from being modified to include the features of applicants' claimed invention. Prior art must be considered in its entirety, including disclosures that teach away from the claims. See MPEP 2141.02. If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. See *In re Gordon*, 221 USPQ 1125 (Fed. Cir 1984).

Emens refers to directly sending (i.e., via email) the content (i.e., a picture) for an event captured by a sensor directly to a user. Thus, Emens relies only on "push" technology to provide to the user content for an event captured

by a sensor. Emens, col. 2, line. 39. In sharp contrast, applicants' amended independent claims are directed toward a very different technique for provided access to captured content. Rather than "pushing" the content to a user, applicants' amended independent claims 1, 14, and 27 specify that the locally captured content is published on a remote computer and is associated with a user account. The user is then notified that the content has been published and is allowed to access the published content on the remote computer with a user access device.

Accordingly, because Emens is solely directed toward a push-type notification that directly sends content to the user, Emens teaches away from the method and systems of applicants' claims.

Conclusion

For at least these reasons, applicants submit that the rejection of amended independent claims 1, 14, and 27 under 35 U.S.C. § 103(a) as being obvious over Emens in view of Serbinis should be withdrawn.

The Rejection of Independent Claim 40

The Examiner rejected independent claim 40 under 35 U.S.C. § 103(a) as being obvious over Emens in view of Serbinis.

Applicants' amended independent claim 40 is, generally speaking, directed to a method for providing remote access to captured content. Using a capture device, content regarding an event (e.g., detected by a sensor) is captured. In response to receiving a user indication over a communications network to upload the content, the locally captured content is transmitted to a remote computer over a communications network, where the

content is associated with a user account and is published to a database on the remote computer. The user is allowed to access the published content on the remote computer with a user access device.

The Examiner rejected independent claim 40 for the same reasons as independent claims 1, 14, and 27. Applicants respectfully disagree with this rejection.

Applicants' submit that, for at least the reasons provided above with respect to independent claims 1, 14, and 27, the Examiner has failed to point to any suggestion or motivation for modifying Emens with the teachings of Serbinis. Therefore applicants submit that the Examiner has failed to make a *prima facie* case of obviousness.

Furthermore neither Emens nor Serbinis show or suggest all of the elements of applicants' amended independent claim 40. In particular, neither Emens nor Serbinis show or suggest "receiving a user indication to upload [locally captured content] to a remote computer over a communications network," as specified by applicants' amended independent claim 40. In fact, Emens teaches away from this feature as Emens refers to a system that directly sends (i.e., via email) the content (i.e., a picture) for an event captured by a sensor directly to a user and without waiting for any user indication.

For at least these reasons, applicants submit that the rejection of amended independent claim 40 under 35 U.S.C. § 103(a) as being obvious over Emens in view of Serbinis should be withdrawn.

The Rejection of Independent Claim 46

The Examiner rejected independent claim 46 under 35 U.S.C. § 103(a) as being obvious over Emens in view of Serbinis.

Applicants' amended independent claim 46 is, generally speaking, directed to a method for providing remote access to captured content. Using a capture device, content regarding an event (e.g., detected by a sensor) is captured and transmitted to a remote computer over a communications network, where the content is associated with a user account and is published to a database on the remote computer. The database stores locally captured content associated with the user account and is updated with the published content. A type of notification is determined at the remote computer based on the event type from a plurality of notification types and the determined type of notification is communicated from the remote computer to a user in order to indicate that the content has been published on the remote computer.

The Examiner rejected independent claim 46 for the same reasons as independent claims 1, 14, and 27. Applicants respectfully disagree with this rejection.

Applicants' submit that, for at least the reasons provided above with respect to independent claims 1, 14, and 27, the Examiner has failed to point to a suggestion or motivation for modifying Emens with the teachings of Serbinis. Therefore applicants submit that the Examiner has failed to make a *prima facie* case of obviousness.

Furthermore neither Emens nor Serbinis show or suggest all of the elements of applicants' amended independent claim 46. In particular, neither Emens nor Serbinis show or suggest

"determining at the remote computer a type of notification from a plurality of notification types based on [an event type of locally captured content]," as specified by applicants' amended independent claim 46. In fact, Emens only refers to sending captured content to a user via email. A profile may specify to which email address the content is sent or even whether to multicast the content to multiple email addresses. However, email is just a single notification type. Thus, Emens does not determine a notification type from a plurality of notification types as specified by applicants' amended independent claim 46. Furthermore, Emens does not show or suggest determining a notification type at a remote computer, which is also specified by applicants' amended independent claim 46.

For at least these reasons, applicants submit that the rejection of amended independent claim 46 under 35 U.S.C. § 103(a) as being obvious over Emens in view of Serbinis should be withdrawn.

The Rejection of the Dependent Claims

Dependent claims 2-6, 15-19, 28-32, 41-43, 45, 47-49, and 51 are rejected under 35 U.S.C. § 103(a) as being obvious over Emens in view of Serbinis. Applicants' submit that these dependent claims are allowable at least because they depend, directly or indirectly from independent claims 1, 14, 27, 40, and 46, respectively.

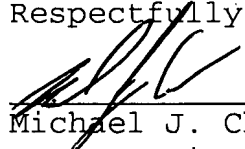
Dependent claims 7-13, 20-26, 33-39, 44, and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Emens in view of Serbinis and in further view of Vaithilingam. Applicants' submit that these dependent claims are allowable at

least because they depend, directly or indirectly from independent claims 1, 14, 27, 40, and 46, respectively.

Conclusion

In view of the foregoing, applicants submit that this application, including claims 1-51, is now in condition for allowance. Reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,



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